



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

WILL WILSON
ATTORNEY GENERAL

June 20, 1958

Honorable Ramie H. Griffin
Criminal District Attorney,
Jefferson County
Beaumont, Texas

Opinion No. WW-463

Re: Interpretation of parts
of Art. 7298, VACS pro-
hibiting the bringing of
lawsuit for delinquent
personal property taxes
after the expiration of
four years from the time
such taxes become delin-
quent.

Dear Mr. Griffin:

Your request for an opinion reads, in part as
follows:

"I hereby request the opinion of
your office of the interpretation of
the following quoted portion of Art.
7298 V.A.C.S. '----no suit shall be
brought for the collection of delin-
quent personal property taxes of any
taxing authority unless instituted
within four years from the time same
shall become delinquent.'

"The specific question that I
have about the above quoted portion
of Art. 7298 is whether that statute
is merely a statute of limitation or
an absolute bar to the institution of
a suit to recover delinquent personal
property taxes that have been delin-
quent for more than four years."

The above-quoted part of Article 7298, V.C.S.
is a limitation statute and nothing more. In an appropriate
case it is available to the taxpayer as a defense in a
delinquent tax suit but must be pleaded and proven. Sam
Bassett Lumber Company v. City of Houston, 145 Tex. 492,


198 S.W. 2d 879. Rule 94 Texas Rules of Civil Procedure. Amarillo Independent School District v. Brockmeyer (Civ. App.) 292 S.W. 2d 886 and authorities cited therein.

SUMMARY

The part of Article 7298 prohibiting the bringing of a lawsuit for delinquent personal property taxes after the expiration of four years from the time such taxes become delinquent is a statute of limitation which must be affirmatively pleaded if set up as a defense.

Yours very truly,

WILL WILSON
Attorney General of Texas

By 

John C. Phillips
Assistant

JCP:jc

APPROVED:

OPINION COMMITTEE

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REVIEWED FOR THE ATTORNEY GENERAL

BY: W. V. Geppert